

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL DOCKET NO. 5:07CV62-V**

**TEMPLETON PROPERTIES, L.P.,** )  
 )  
 **Plaintiff,** )  
 )  
 **v.** )  
 )  
 **TOWN OF BOONE, and TOWN OF** )  
 **BOONE BOARD OF ADJUSTMENT,** )  
 )  
 **Defendants.** )  
 )

---

**MEMORANDUM AND ORDER**

**THIS MATTER** is before the Court on Plaintiff's Motion to Remand (Document #9), Defendant's Response (Document #7) and Defendant's Response (Document #12).

Pursuant to 28 U.S.C. § 636(b)(1)(B), this Court referred this motion to United States Magistrate Judge Dennis Howell for consideration and recommendation as to its disposition. See Oral Order, February 4, 2008. In a thorough and well considered Memorandum and Recommendation filed February 4, 2008, Magistrate Judge Howell recommended that Plaintiff's Motion for Remand be granted. Document #19. The parties were advised that objections were to be filed in writing within ten (10) days after service of the Magistrate Judge's Memorandum and Recommendation. M&R 9-10.<sup>1</sup>

---

<sup>1</sup>Citing to the appropriate statute, the M&R states that the parties must file objections within fourteen (14) days. However, the statute requires objections to be filed within ten (10) days of the M&R. See 28 U.S.C. § 636(b)(1). Regardless, the parties have had more than fourteen days and no objections have been filed.

The time for filing objections has passed and no objections have been filed by either party in this matter.

After a careful review of Magistrate Judge Howell's Memorandum and Recommendation, the Court finds that his findings of fact are supported by the record and his conclusions of law are consistent with and well supported by current case law. See Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982) (holding that only a careful review is required in considering a memorandum and recommendation absent specific objections.) Accordingly, the Court hereby accepts the Memorandum and Recommendation of Magistrate Judge Howell and adopts it as the final decision of this Court for all purposes relating to this case.

**IT IS, THEREFORE, ORDERED** that Plaintiff's Motion to Remand is hereby **GRANTED**, and that this matter be **REMANDED** to the North Carolina General Court of Justice, Superior Court Division, Watauga County.

**IT IS FURTHER ORDERED** that Plaintiff's federal claim be **DISMISSED without prejudice**.

**IT IS FURTHER ORDERED** that the parties bear their own costs in this matter.

Signed: February 29, 2008



Richard L. Voorhees  
United States District Judge

